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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,506	03/28/2001	Dennis Sunga Fernandez	FERN-P001D	8534

22877 7590 01/14/2005  
FERNANDEZ & ASSOCIATES LLP  
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MENLO PARK, CA 94025

EXAMINER
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VO, TUNG T

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/823,506

Applicant(s)

FERNANDEZ ET AL.

Examiner

TUNG T. VO

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 20, 22-23, 24-27, 28-31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bornn et al. (US 5,348,008) in view of Kennedy, III et al. (US 6,301,480).

Re claims 20, 23, 27, 31, and 33, Bornn teaches an integrated tele-medicine system (fig. 2A) using fixed and mobile processor communications (1000, 4000, and 5000 of fig. 2A) for enabling remote medical care, the system comprising:

a care-giver processor (5000 of fig. 2A) coupled to a packet-switched digital network (4004 of fig. 2A), the care-giver processor (5000 of fig. 2A) accessing a database including a representation of an identity and a location of at least one remote patient (4000 of fig. 2A, note a base station archives data from the remote patient unit 1000 of fig. 2A);

a communication unit (1000 of fig. 2A, note patient unit (1000) is a wearable unit or a portable device to communicate to the base station (personal base station fig. 2B) physically associated with a remote patient for monitoring at least one medical vital sign of such remote patient, the mobile communications unit communicating such monitored vital sign to the care-giver processor through the digital network (1000, 1002, 4000, 4002, 5000 of fig. 2B); and

a first detector (4013 of fig. 2A) coupled to the digital network and selected by the care-giver processor for observing the remote patient when such remote patient is determined by the care-giver processor (5000 of fig. 2A) to be located within a first observation range of the selected first detector (see also col. 7, line 56-col. 8, line 47);

wherein the caregiver processor (5000 of fig. 2A), by automatically corroborating the monitored vital sign with the observed location of the remote patient (see col. 15, lines 30-54, e.g. vital sign is detected; and col. 16, lines 1-16, e.g. automatically confirm the patient medical need based on the vital sign), determines when an unsafe or unmonitored behavior or movement of the remote patient occurs thereby enabling corrective action to provide appropriate care to the remote patient (col. 8, lines 7- 36).

It is noted that Bornn teaches the wearable communication unit (1000 of fig. 2A) associated with the remote patient that is detected by the first detector for observing the patient when such remote patient is movable within an observable range (4013 of fig. 2A) but Bornn does not particularly teach a mobile communication unit comprises an accelerometer, and a modification according a rule set as claimed.

However, Kennedy teaches a mobile communication unit (12 of fig. 1) comprises an accelerometer and personal health sensor, and modification according a rule set (col. 3, lines 5-19). Therefore, taking the combined teachings of Bornn and Kennedy as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Kennedy into the system of Born for the same purpose of communicating between the remote patient and central station fast and more accuracy. Doing so would provide the advantages of the system include the adaptation of the system to provide

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mobile units are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items such as ambulance vehicle that desire a selection of services. These services include emergency services, roadside assistance, information services (e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.

Re claim 22, Bornn teaches a position signal being generated by the mobile communications unit coupled to the remote patient when remote patient is movable within an observable range (col. 15, lines 30-68), an observable signal generated by the fist detector (4013 of fig. 2A) uncoupled to the remote patient in the observable range.

Re claim 24, Bornn further teaches a software agent (5000 of fig. 2B), the computer (5000) has a software to program instructions for accessing a database associated with such remote patient accesses a database.

Re claim 25, Bornn further teaches a portable identifier (1000 of fig. 2B) associated with the remote patient is used for communication therewith (2 way voice or data link)

Re claim 26, Born further teaches an object representation of such remote patient comprises an object name, an object identifier, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio broadcast signal (1000 of fig. 2B).

Re claim 28, Bornn further teaches the remote patient is monitored temporarily using an extrapolated or last-stored positional or visual signal (4008, 4006 of fig. 2A, note the interface (4006) temporarily stores the patient data and visual image signal).

Re claim 29, Bornn further teaches the remote patient is authenticated according to a voice pattern, a finger-print pattern, a written signature, or magnetic or smart-card signal (AUDIOTONE AND SYNTHESIZED VOICE OPTIONS FOR ALERTS AND SYSTEM STATUS IN PATIENT UNIT (1000 of fig. 2B)).

Re claim 30, Bornn further teaches an electronic file comprising a book, a greeting card, a news report, a sports report, a stock report, an artwork, a research database, a personal list, a recorded or live voice or music transmission, an electronic tool, or a commercial transaction is provided to the remote patient (figs. 8A, 8B, and 8C).

2. Claims 35, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bornn et al. (US 5,348,008) in view of Kennedy et al. (US 6,301,480) as applied to claims 20, 31, and 33, and further in view of Coli et al. (US 6,018,713).

Re claims 35-37, the combination of Bornn and Kennedy further teaches the caregiver processor (5000 of fig. 2B) confirms the remote patient identity by processing a visual image of the remote patient adaptive or neural learning software to recognize such patient (col. 15, lines 55-68) as shown in Bornn.

It is noted that the combination of Bornn and Kennedy does not particularly teach the caregiver processor for thereby enabling health-care billing to the appropriate patient as claimed.

However, Coli teaches the caregiver processor for thereby enabling health-care billing to the appropriate patient (col. 4, lines 43-61; e.g. the system offers readily available online access to databases containing patient, laboratory, and medical testing information; online report generation capabilities; online product information; and automatic billing for services performed). Therefore, taking the teachings of Born, Kennedy, and Coli as a whole, it would

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have been obvious to one skill of ordinary skill in the art to incorporate the teaching of Coli into the system of Bornn for the same purpose of billing the remote patient through out the network.

Doing so would reduce cost of mailing the bill the patient faster.

3. Claims 21, 32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bornn et al. (US 5,348,008) in view of Kennedy et al. (US 6,301,480) as applied to claims 20, 31, and 33, and further in view of David et al. (US 5,544,649).

Re claims 21, 32, 34, the combination of Bornn and Kennedy suggests a central base station (2000 of fig. 1A) communicate with the nurse unit (3000 of fig. 1A) and patients (1000, 1000A, 1000B of fig. 1A) as shown in Born, but it does not particularly discloses a second detector coupled to the digital network and selected by the care-giver processor for observing the remote patient when such remote patient is determined by the care-giver processor to have moved and subsequently located within a second observation range of the selected second detector as claimed.

However, David a second detector (10 B, 22 of fig. 2) coupled to the digital network and selected by the care-giver processor for observing the remote patient when such remote patient is determined by the care-giver processor to have moved and subsequently located within a second observation range of the selected second detector.

Taking the combined teachings of Bornn, Kennedy, and David as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the second detector (22 of fig. 2) into the combined system of Born and Kennedy for the same purpose of detecting the patient image to be observed by the caregiver processor (5000 of fig. 2) of Born. Doing so would reduce cost of the system and provide the service needs to the patient faster.

*Response to Arguments*

2. Applicant's arguments filed 09/23/2004 have been fully considered but they are not persuasive.

The applicant argued that Born does not teach or suggest automatically corroborating the monitored vital sign with the observed location of the remote patient. Born merely describes (cols. 7-8) patient unit 1000, base station 4000 and dispatcher station 5000 for communicating certain alerts and commands for handling potentially life-threatening events', however, without any automatic corroboration of monitored vital signs with observed patient location, and especially for determining when an unsafe or unmonitored behavior or movement of the remote patient occurs or may likely occur, page 8 of the remarks.

The examiner respectfully disagrees with the applicant. It is submitted that Born teaches (cols. 7-8, and fig 2A) a patient unit 1000, base station 4000 and dispatcher station 5000 for communicating certain alerts and commands for handling potentially life-threatening events, wherein the care-giver (5000) automatically corroborating (confirming, verifying, or authenticating) the monitored vital sign (col. 15) with the observed location of the remote patient (col. 16, lines 1-16, e.g. when an alert is received at the dispatcher station 5000, the dispatcher will confirm the patient's medical need according to physician-established protocols and can instruct the base station 4000 to initiate a local call to the professional community response ("911") in that patient's locale using rapid auto-dialing). In view of the discussion above, the claimed features are unpatentable over Born.



***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

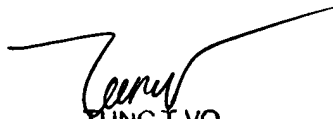
***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUNG T. VO whose telephone number is 703-308-5874. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TUNG T. VO**  
**PATENT EXAMINER**

T. Vo

TUNG T. VO  
Primary Examiner  
Art Unit 2613